



DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0026]

Agency Information Collection Activities; Revision of a Currently Approved Collection:

Immigrant Petition by Standalone Investor; Immigrant Petition by Regional Center

Investor

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal Web site at <http://www.regulations.gov> under e-Docket ID number USCIS-2007-0021. All submissions received must include the OMB Control Number 1615-0026 in the body of the letter, the agency name and Docket ID USCIS-2007-0021.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721-3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their

individual cases can check Case Status Online, available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS Contact Center at (800) 375-5283; TTY (800) 767-1833.

SUPPLEMENTARY INFORMATION:

Background:

On March 15, 2022, President Biden signed the EB-5 Reform and Integrity Act of 2022, Div. BB of the Consolidated Appropriations Act, 2022 (Pub. L. No. 117-103) into law, which revised INA 203(b)(5). The law immediately repealed the former Regional Center (RC) Program statute at Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1993, Pub. L. 102-395, 106 Stat. 1828, § 610(b).

The law also reauthorized a substantially reformed EB-5 Regional Center (RC) Program which became effective on May 14, 2022. Though USCIS will continue to provide similar services for the newly reformed RC program as it did under the former RC program (such as initial designations, petition adjudications, etc.), the newly authorized RC program has a different legal framework and requirements from the previously authorized program. Consequently, the current form I-526, Immigrant Petition by Alien Entrepreneur, associated with the EB-5 Program, would not gather sufficient information to adjudicate investor petitions under the new program.

Accordingly, USCIS split the former Form I-526, Immigrant Petition by Alien Entrepreneur, into two versions: Form I-526, Immigrant Petition by Standalone Investor, and Form I-526E, Immigrant Petition by Regional Center Investor. The revision of Form I-526 resulted in creating two separate forms to better streamline the adjudication process for Standalone Investors and Regional Center Investors; specifically, Form I-526 will be used by a Standalone Investor and Form I-526E will be used by an investor pooling their investment with one or more qualified immigrants under the new EB-5 Regional Center Program to petition for status as an immigrant to the United States under section 203(b)(5) of the Immigration

Nationality Act (INA), as amended. USCIS began accepting the new Form I-526 and Form I-526E starting on July 12, 2022. USCIS will continue to adjudicate all Forms I-526 filed before March 15, 2022 (the date of the enactment of the EB-5 Reform and Integrity Act of 2022), according to the applicable eligibility requirements at the time the petition was filed.

On June 24, 2022, the U.S. District Court for the Northern District of California preliminarily enjoined USCIS from “treating as deauthorized the previously designated regional centers” including “processing new I-526 petitions from immigrants investing through previously authorized regional centers ... just as the agency would do for a newly approved regional center.” *Behring v. Mayorkas*, Order Granting Plaintiff’s Motion for a Preliminary Injunction, Case No. 22-cv-02487-VC (N.D. Cal. Jun 24, 2022). On September 1, 2022, the U.S. District Court in *Behring* approved a settlement between the parties. Under the terms of the settlement, previously designated regional centers did not lose their designation as a result of the EB-5 Reform and Integrity Act of 2022. As USCIS is working to implement the settlement, if it determines changes to the Forms I-526 and I-526E are necessary, it will pursue such changes through either this form revision process or other appropriate mechanism.

Comments:

The information collection notice was previously published in the *Federal Register* on August 23, 2022 at 87 FR 51696, allowing for a 60-day public comment period. USCIS received three comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2007-0021 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you

provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

- (1) Type of Information Collection Request: Revision of a Currently Approved Collection.
- (2) Title of the Form/Collection: Immigrant Petition by Standalone Investor; Immigrant Petition by Regional Center Investor.
- (3) Agency form number, if any, and the applicable component of the DHS sponsoring the collection: I-526; I-526E; USCIS.
- (4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Individuals or households. The form I-526 is used by a standalone investor to petition USCIS for status as an immigrant to the United States under section 203(b)(5) of the Immigration and Nationality Act (INA), as amended. The form I-526E is used by an investor pooling their investment with one or more qualified immigrants participating in the Regional Center Program to petition USCIS for status as an immigrant to the United States under section 203(b)(5) of the Immigration and Nationality Act (INA), as amended. A regional center investor may also use Form I-526E to report any amendments necessary to establish ongoing eligibility if the regional center, new commercial enterprise, or job-creating entity in which the investor has invested is terminated or debarred from participation in the Regional Center Program.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated total number of respondents for the information collection I-526 is 504 and the estimated hour burden per response is 1 hour and 50 minutes; the estimated total number of respondents for the information collection I-526E is 3,980 and the estimated hour burden per response is 1 hour and 50 minutes.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 8,219 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is \$4,932,400.

Dated: December 19, 2022.

Samantha L Deshommnes,
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Regulatory Coordination Division,
Office of Policy and Strategy,
U.S. Citizenship and Immigration Services,
Department of Homeland Security.*

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